IN THE HIGH COURT OF JUDICATURE FOR RAJASTHAN AT JODHPUR

**O R D E R**

S.B. CIVIL WRIT PETITION NO. 1270/2007
(Raghu Raj Sharma Vs. State of Rajasthan & Ors.)

Date of Order : 28/03/2007

**PRESENT**
**HON'BLE MR. JUSTICE H.R.PANWAR**

Mr. Prakash Sharma for the petitioner.

**BY THE COURT**:-

Heard learned counsel for the petitioner.

By the instant writ petition, the petitioner seeks his regularisation on the post of Village Secretary. During the course of arguments, learned counsel for the petitioner fairly conceded that there is no sanctioned post of Village Secretary, but the petitioner has been serving on the post since last 10 years.

In Secretary, State of Karnataka & ors. Vs. Uma Devi (3) & ors., (2006) 4 SCC 1, held as under:-

> "It was then contended that the rights of the employees thus appointed under Articles 14 and 16 of the Constitution, are violated. It is stated that the State has treated the employees

> unfairly by employing them on less than minimum wages and extracting work from them for a pretty long period in comparison with those directly recruited who are getting more wages or salaries for doing similar work. The employees before us were engaged on daily wages in the department concerned on a wage that was made known to them. There is no case that the wage agreed upon was not being paid. Those who are working on daily wages formed a class by themselves, they cannot claim that they are discriminated as against those who have been regularly recruited on the basis of the relevant rules. No right can be founded on an employment on daily wages to claim that such employees should be treated on a par with a regularly recruited candidate, and made permanent in employment, even assuming that the principle could be invoked for claiming equal wages for equal work. There is no fundamental right in those who have been employed on daily wages or temporarily or on contractual basis, to claim that they have a right to be absorbed in service. As has been held by this Court, they cannot be said to be holders of a post, since, a regular appointment could be made only by making appointments consistent with the requirements of Articles 14 and 16 of the Constitution. The right to be treated equally with the other employees employed on daily wages, cannot be extended to a claim for equal treatment with those who were regularly employed. That would be treating unequals as equals. It cannot also be relied on to claim a right to be absorbed in service even though they have never been selected in terms of the relevant recruitment rules. The arguments based on Articles 14 and 16 of the Constitution are therefore overruled."

Therefore, keeping in view the decision of the Hon'ble Supreme Court in Secretary, State of Karnataka & ors. Vs. Uma Devi (3) & ors. (supra), there being no sanctioned post

of Village Secretary, the petitioner cannot claim regularisation on the said post. I do not find any ground to interfere in the inherent jurisdiction. The writ petition is, therefore, dismissed. There shall be no order as to costs.

(H.R.PANWAR),J.

RP.